

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY _____ D.C.

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JOSE OSCAR CHAVEZ, et al.,

Plaintiffs,

vs.

NICOLAS CARRANZA,

Defendant.

Civ. No. 03-2932-M1/P

THOMAS J. BRYAN
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

ORDER GRANTING PLAINTIFFS' MOTION TO COMPEL DEPOSITION TESTIMONY
OF DR. J. MICHAEL WALLER AND DENYING DEFENDANT'S MOTION TO QUASH
THE NOTICE OF DEPOSITION OF DR. J. MICHAEL WALLER AND FOR
PROTECTIVE ORDER

Before the court is plaintiffs' Motion to Compel Deposition Testimony of Dr. J. Michael Waller and Denying Defendant's Motion to Quash the Notice of Deposition of Dr. J. Michael Waller and for Protective Order, both filed on August 2, 2005. On August 2, the court held a telephone conference with counsel of record. At the conclusion of the conference, the court GRANTED the plaintiffs' motion to compel and DENIED the defendant's motion to quash as follows:

1. Dr. J. Michael Waller has been identified as an expert witness on behalf of the defendant.

2. Pursuant to the court's case management order, the deadline to complete expert discovery was May 27, 2005.

3. Due to personal difficulties relating to defense counsel's family, the plaintiffs agreed to delay taking the deposition of Dr. Waller. In letters sent by plaintiffs' counsel to defendant's counsel dated June 13, 2005 and June 29, 2005, the plaintiffs emphasized that they had not yet received Dr. Waller's expert report and that Dr. Waller's deposition must be completed by the first week of August.

4. Dr. Waller's expert report was provided to the plaintiffs on July 12, 2005, approximately six weeks after the deadline for completing expert depositions.

5. On July 25, 2005, the plaintiffs noticed Dr. Waller's deposition for August 4, 2005, in Washington, D.C. (where Dr. Waller resides).

6. On August 1, 2005, the defendant informed the plaintiffs that Dr. Waller would not be able to sit for his deposition on August 4, and suggested alternative dates of August 17 through 31. In a letter dated August 1 (attached to defendant's motion to quash), Dr. Waller states that he has a publishing deadline that will prevent him from being deposed.

7. The court finds that the defendant and Dr. Waller have not articulated a sufficient basis to postpone the deposition.

8. Therefore, Dr. Waller shall comply with the notice of deposition and appear for his deposition on August 4, 5, or 6, 2005, in Washington, D.C.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Tu M. Pham', is written over a horizontal line.

TU M. PHAM

United States Magistrate Judge

August 2, 2005
Date



Notice of Distribution

This notice confirms a copy of the document docketed as number 58 in case 2:03-CV-02932 was distributed by fax, mail, or direct printing on August 3, 2005 to the parties listed.

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Honorable Jon McCalla
US DISTRICT COURT